

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RFA-5039-2017 (O&M)
Reserved on: 21.10.2022
Date of decision: 09.11.2022

STATE OF HARYANA AND ORS

..Appellants

Versus

HANSRAJ

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Shivendra Swaroop, AAG, Haryana.
Mr. Harsh Vardhan, AAG, Haryana.

Mr. Jai Vir Yadav, Sr. Advocate
with Mr. Harshvardhan Ranga, Advocate
Mr. Nitish Sharma, Advocate

Ms. Priya, Advocate
for Mr. Rohit Mittal, Advocate
Mr. S.K. Yadav, Advocate
Mr. Mukesh Yadav, Advocate
Mr. Shashikant Gupta, Advocate
Mr. Hitesh Malik, Advocate
Mr. Jivesh Malik, Advocate
for the landowners.

ANIL KSHETARPAL, J.

1. **Introduction and background:**

1.1 While praying for modification of the market value assessed in the award passed by the Reference Court (hereinafter referred to as 'the RC') on account of compulsory acquisition of land, the State of Haryana as well as the landowners have filed this batch of appeals and cross-appeals, respectively (details whereof are at the foot of the judgment). The notification under Section 4, 6 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the 1894 Act') and the awards passed by the Land Acquisition Collector (hereinafter referred to as 'the LAC') as well as RC,

are common. The learned counsel representing the parties are *ad idem* that this batch of appeals can conveniently be disposed of by a common judgment.

1.2 The relevant particulars of this batch of appeals are as under:

Sr. No.	Particulars	Relevant Date
1.	Preliminary notification under Section 4 of the 1894 Act	28.02.2011
2.	Area of land	119 kanals and 12 marlas
3.	Location of land	Village Dhani Bathotha
4.	Purpose of acquisition	Widening and four-laning of Major District Road-129 from village Rai Malikpur to Narnaul
5.	Declaration under Section 6 was issued.	06.07.2011
6.	Number and date of LAC award	Award No.25 dated 23.05.2012
7.	Amount assessed by the LAC	The LAC offered to pay the market value of the acquired land measuring 119 kanals and 12 marlas at the rate of Rs.20,00,000/- per acre.
8.	Date of RC's award	18.07.2017
9.	Amount assessed by the RC	The RC assessed the market value of the acquired land at the rate of Rs.38,71,998/- per acre.

FACTS:

1.3 Dissatisfied with the amount offered by the LAC, on the applications filed by the landowners under Section 18 of the 1894 Act, 62 cases were referred to the Court. The landowners claimed that the land is located in Hisar-Jaipur Road and the LAC has not taken into consideration the commercial value of the acquired land along with its structures. It is claimed that the acquired land has great potential to be developed residential/commercial area and the market value of the acquired land was

not less than Rs.50,000/- per sq. yard, at the relevant time. The landowners claim that many fuel stations, shops, schools and residential houses exist in the area and the acquired land is located at only a distance of 1 km from the new grain market, Narnaul.

1.4 On the other hand, while contesting the petitions, the State of Haryana claim that the LAC has offered just, fair and adequate market value.

1.5 The RC, on appreciation of the pleadings, culled out the following issues:-

- “1. What was the market value of the acquired land on the date of publication of notification under Section 4 of the Land Acquisition Act? OPP*
- 2. Whether the petitioners are entitled to any enhanced compensation, if so, at what rate? OPP*
- 3. Whether the petitioners are entitled to any amount as compensation on account of loss of severance of their land and superstructures like building, well, tress etc. standing on the acquired land as alleged? OPP*
- 4. Relief.”*

2. **Evidence produced by the parties:**

2.1 In oral evidence, the landowners examined the following witnesses:-

<i>PW1</i>	<i>Smt. Geeta Devi</i>
<i>PW2</i>	<i>Sh. Yashpal Dhamija, Draftsman</i>
<i>PW3</i>	<i>Smt. Madhu Devi</i>
<i>PW4</i>	<i>Sh. Jagdish Rai Gupta</i>
<i>PW5</i>	<i>Sh. Jagdish Prasad @ Jagat Singh</i>
<i>PW6</i>	<i>Sh. Jitender Kumar, HRC</i>
<i>PW7</i>	<i>Sh. Virender Singh</i>
<i>PW8</i>	<i>Sh. Ved Prakash</i>
<i>PW9</i>	<i>Sh. Dalip Singh</i>
<i>PW10</i>	<i>Sh. Vijaypal</i>
<i>PW11</i>	<i>Sh. P.R. Gupta, Building Expert</i>
<i>PW12</i>	<i>Sh. P.R. Gupta, Building Expert</i>
<i>PW13</i>	<i>Sh. Ramniwash Saini, Draftsman</i>

<i>PW14</i>	<i>Sh. Umrao</i>
<i>PW15</i>	<i>Smt. Simple Devi</i>
<i>PW16</i>	<i>Sh. Sher Singh</i>
<i>PW17</i>	<i>Sh. Rajbir</i>
<i>PW18</i>	<i>Sh. Sube Singh</i>
<i>PW19</i>	<i>Sh. Rohtash Kumar</i>
<i>PW20</i>	<i>Sh. Subhash</i>

2.2 In documentary evidence, the landowners produced the following evidence in support of their case apart from the sale deeds, a tabulated compilation of which is given in para 2.5:-

<i>Ex.P-1, Ex.P-6 to Ex.-10</i>	<i>Copies of the sale deeds statement of award</i>
<i>Ex.P-2</i>	<i>Certified copy of the field book.</i>
<i>Ex.P-3</i>	<i>Certified copy of the aksh-sijra (revenue layout plan) of the acquired land</i>
<i>Ex.P-4</i>	<i>Copy of the award No.25 dated 23.05.2012</i>

2.3 On the other hand, in oral evidence, the State of Haryana examined RW-1 Sh. Sajan Singh, Sub-Divisional Engineer and RW-2 Sh. Sher Singh.

2.4 In documentary evidence, the State of Haryana produced copies of jamabandi Ex.RA and Ex.RB, *Farbadar* Ex.RC, copy of mutation Ex.RD, copy of site plan Ex.RE, copies of the sale deed Ex.R1 to Ex.R-8, Gazette notification under Section 4 of the 1894 Act dated 15.03.2011 (Ex.R-9), rate list fixed by the Committee (Ex.R-10) held under the chairmanship of the Commissioner, Gurugram, Division Gurugram and *aksh-shijra* (Revenue layout plan) (Ex.R-11), apart from the sale deeds, a tabulated compilation of which is given in para 2.5.

2.5 At this stage, it is considered appropriate to compile the complete information in respect of various sale deeds produced by the parties in a tabulated form:-

SALE DEED PRODUCED BY THE LANDOWNERS							
Sr. No.	Exhibit Nos.	Sale Deed No.	Date	Total Area	Amount (in Rs.)	Amount Per Acre (in Rs.)	Village
1	P-1, P-6 & P-7	642	21.05.2007	340 sq. yards	4,00,000/-	5,79,500/-	Dhani Bathotha
4	P-8	1844	15.10.2010	½ M 15.16 sq. yards	48,000/-	1,53,60,000/-	Dhani Bathotha
5	P-9	4555	08.09.2011	4M	1,90,000/-	76,00,000/-	Dhani Bathotha
SALE DEED PRODUCED BY THE STATE							
1	R-1	216	26.04.2011	1 Acre 6 kanal 7 marla	9,60,000/-	13,04,529/-	Dhani Bathotha
2	R-2	966	02.07.2010	5K-16M	9,60,000/-	13,24,137/-	Dhani Bathotha
3	R-3	743	11.06.2012	1 Acre 3 kanal 19 marla	22,50,000/-	14,57,489/-	Dhani Bathotha
4	R-4	196	26.04.2012	1 Acre 1 kanal 6 marla	17,45,000/-	15,01,075/-	Dhani Bathotha
5	R-5	53	07.04.2010	3K-5M	4,50,000/-	11,07,692/-	Dhani Bathotha
6	R-6	3947	24.08.2011	2 Acre 4 kanal 10 marla	33,33,000/-	13,00,682/-	Dhani Bathotha
7	R-7	1324	11.08.2010	3K-10M	5,70,000/-	13,02,857/-	Dhani Bathotha
8	R-8	965	02.07.2010	5K-15M	9,80,000/-	13,35,652/-	Dhani Bathotha

Note:- Sale deeds Ex.P1, Ex.P6 and Ex.P7 are same and in fact multiple copies of the same sale deeds have been produced.

3. **Discussion by this Court:**

3.1 It is evident from a careful study of the tabulated information in para 2.5 that the landowners have produced sale deeds of tiny plots when compared with the acquired land. The RC has relied upon sale deed of 11 marlas of plot Ex.P-1 (bearing sale deed No.642) dated 21.05.2007, located in village Dhani Bathotha. The RC, after cumulatively increasing the amount at the rate of 10% per annum for the gap period, arrived at a figure of Rs.77,43,997/-. Thereafter, the Court applied 50% deduction on account of difference in the size of the plot and acquired land and calculated the market value of the acquired land at Rs.38,71,998/- per acre. The sale deeds

produced by the State of Haryana have been kept out of consideration on the ground these reflect a price which is lower than the amount offered by the LAC, therefore, in view of Section 25 of the 1894 Act, the aforesaid sale deeds cannot be taken consideration.

3.2 This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the judgments in lead case passed by the RC as well as the lower Court record, which was requisitioned.

3.3. The learned Senior counsel representing the landowners while criticising the judgment passed by the RC claims that the RC committed an error while applying 50% deduction though it was found that sale deed Ex.P-1 is a comparable parcel with the acquired land. He submits that deduction could not be more than 20% as the acquisition is for the widening of road and therefore, no development is required to take place.

3.4 On the other hand, the learned counsel representing the State of Haryana contends that the RC has committed an error (by misinterpreting Section 25 of the 1894 Act) while refusing to take into consideration Ex.R-1 to Ex.R-8. He further contends that the sale deed Ex..P-1 is a tiny plot of 11 marlas which is neither comparable nor of the contemporaneous period.

3.5 Upon a careful study of the impugned judgment, it is evident that RC has committed the following errors:-

- i. Section 25 of the 1894 Act, has been wrongly, interpreted while refusing to take into account the sale deeds produced by the State on the ground that these sale deeds reflect a price lower than the amount offered by the

LAC. This issue is no longer *res integra* in view of the judgment passed by the Supreme Court in **Lal Chand Vs. Union of India, (2009) 15 SCC 769**, wherein, it has been declared that there is no bar in taking into account the sale deeds produced by the parties reflecting a price lower than the amount offered by the LAC. The only bar is that the landowners shall not be offered the market value lower than the amount offered by the LAC. In other words, it has been held that there is no prohibition in taking into account the sale deeds reflecting a price lower than the amount offered by the LAC.

ii. The RC has committed an error in placing reliance on the sale deed dated 21.05.2007 of plot measuring 11 marlas of land. The Court has overlooked that this sale deed is not only of a tiny plot but also of a constructed house. It has specifically been noted in the sale deed that 1260 sq. feet area of the plot is already a covered area. There are three bedrooms, drawing room and two kitchens. The total plot size comes to 310 sq. yards. Ordinarily, a acre of land consists of 4840 sq. yards. As compared to the an acre of land, it is hardly 6.5% of an acre. In these circumstances, the RC committed an error in placing reliance on Ex.P-1.

iii. The RC has also overlooked the layout plan produced by the State of Haryana Ex.R-11. On a careful perusal of

Ex.R-11, it is evident that the parcel of land represented by sale deed bearing No.743 (Ex.R-3) is abutting the highway. Even after issuance of notification under Section 4 of the 1894 Act, the land measuring more than 1 ½ are has been sold at the rate of Rs.14,57,489/- per acre. The parcel of land represented by sale deed bearing No.216 Ex.R-1 dated 26.04.2011 is just one acre away from the road. The sale deed bearing No.53 Ex.R-5 dated 07.04.2010 is located four acres away from the acquired land. All the three sale deeds Ex.R-1, Ex.R-3 and Ex.R-5 clearly indicate that the market value of the acquired land was not more than Rs.15,00,000/- per acre.

iv. The arguments of the learned Senior counsel that the Court should have applied 20% deduction is rendered academic in view of the fact that sale deed Ex.P-1 relied upon by the RC is not comparable with the acquired land. In this case, 119 kanals and 12 marlas of land has been acquired by the State of Haryana. The Court has applied deduction at the rate of 50% on the sale price of Ex.P-1 due to dissimilarity between the size of the plot sold and the acquired land. The aforesaid sale instance being not comparable is liable to be ignored because there are various sale deeds produced by the State of Haryana (Ex.R-1, Ex.R-3 and Ex.R-5), which are comparable parcels of land located near the acquired land.

4. Decision:

4.1 Keeping in view the aforesaid discussion, this Court is left with no choice but for to set aside the judgment of the RC. The appeals filed by the State of Haryana are allowed. Resultantly, the appeals filed by the landowners shall stand dismissed. In fact, the LAC's award No.25 dated 23.05.2012, is upheld resulting in dismissal of all the petitions filed under Section 18 of the 1894 Act .

4.2 All the pending miscellaneous applications, if any, are also disposed of.

09th November, 2022

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

SR. NO.	CASE NO.	PARTIES DETAILS
1.	RFA-5039-2017	STATE OF HARYANA AND ORS V/S HANSRAJ
2.	RFA-5045-2017	STATE OF HARYANA AND ORS V/S SUBE SINGH
3.	RFA-5050-2017	STATE OF HARYANA AND ORS V/S NAWAL KISHORE
4.	RFA-1215-2018	LAL CHAND V/S STATE OF HARYANA AND ORS.
5.	RFA-648-2018	HOSHIYAR SINGH & ORS V/S STATE OF HARYANA & ORS.
6.	RFA-653-2018	DARA SINGH AND ORS. V/S STATE OF HARYANA AND ORS.
7.	RFA-5257-2017	STATE OF HARYANA & ORS V/S PARKASH CHAND & ORS
8.	RFA-5078-2017	STATE OF HARYANA AND ORS V/S SHER SINGH AND ANR
9.	RFA-5081-2017	STATE OF HARYANA AND ORS V/S LAL CHAND AND ORS
10.	RFA-5443-2017	STATE OF HARYANA AND ORS V/S AMAR SINGH AND ORS
11.	RFA-649-2018	DHANWANTI V/S STATE OF HARYANA AND ORS
12.	RFA-645-2018	MAHESH KUMAR AND ORS V/S STATE OF HARYANA & ORS
13.	RFA-650-2018	LAL CHAND AND ORS. V/S STATE OF HARYANA AND ORS.

14.	RFA-5076-2017	STATE OF HARYANA AND ORS V/S PARAS RAM AND ORS
15.	RFA-5077-2017	STATE OF HARYANA AND ORS V/S BABU LAL
16.	RFA-5047-2017	STATE OF HARYANA & ORS V/S BISHAMBER DAYAL & ORS
17.	RFA-110-2018	STATE OF HARYANA & ORS V/S BISHAMBER DAYAL & ORS
18.	RFA-642-2018	SHER SINGH V/S STATE OF HARYANA AND ORS.
19.	RFA-651-2018	AMAR SINGH AND ORS V/S STATE OF HARYANA AND ORS
20.	RFA-5254-2017	STATE OF HARYANA AND OTHERS V/S VIJAY PAL & ORS
21.	RFA-5256-2017	STATE OF HARYANA AND ORS V/S KANWAR SINGH & ANR
22.	RFA-5371-2017	STATE OF HARYANA AND ORS V/S SATISH KUMAR & ORS
23.	RFA-5361-2017	STATE OF HARYANA AND ORS V/S GOBIND AND OTHERS
24.	RFA-646-2018	TARA CHAND AND ANR. V/S STATE OF HARYANA & ORS
25.	RFA-5082-2017	STATE OF HARYANA AND ORS V/S LALA RAM
26.	RFA-175-2018	CHIRANJI LAL V/S STATE OF HARYANA AND ORS
27.	RFA-5251-2017	STATE OF HARYANA AND OTHERS V/S UMRAO & ORS
28.	RFA-5255-2017	STATE OF HARYANA AND OTHERS V/S SMT. MEWA DEVI & ANR
29.	RFA-5269-2017	STATE OF HARYANA AND OTHERS V/S JAI DAYAL SINGH
30.	RFA-5275-2017	STATE OF HARYANA AND ORS V/S HARI SINGH AND ORS
31.	RFA-2608-2019	SUSHMA V/S STATE OF HARYANA AND ORS.
32.	XOBJR-52-CI-2018	STATE OF HARYANA AND ORS V/S URMILA DEVI AND ORS
33.	RFA-5046-2017	STATE OF HARYANA AND ORS V/S VIRENDER
34.	RFA-4733-2018	MEWA DEVI AND ANR V/S STATE OF HARYANA & ORS.
35.	RFA-4573-2018	GOBIND AND ORS V/S STATE OF HARYANA AND ORS
36.	RFA-5132-2018	SHER SINGH AND ORS V/S STATE OF HARYANA AND ORS.
37.	RFA-13600-2018	SMT. GEETA DEVI AND ANR V/S STATE OF HARYANA AND ORS
38.	RFA-5253-2017	STATE OF HARYANA AND OTHERS V/S RAM SAWROOP
39.	RFA-5266-2017	STATE OF HARYANA AND OTHERS V/S RAM CHANDER & ORS
40.	RFA-5044-2017	STATE OF HARYANA AND ORS V/S DHARAMPAL
41.	RFA-1216-2018	KANWAR SINGH (DECEASED) THR. HIS LR & ANR V/S STATE OF HARYANA AND ORS.

42.	RFA-5085-2017	STATE OF HARYANA AND ORS V/S SMT. PURAN DEVI AND ANR
43.	RFA-5346-2017	STATE OF HARYANA AND OTHERS V/S RAM SINGH
44.	RFA-5075-2017	STATE OF HARYANA AND ORS V/S HOSHIYAR SINGH & ORS
45.	RFA-5271-2017	STATE OF HARYANA AND OTHERS V/S RAMDULARI & ANR.
46.	RFA-5042-2017	STATE OF HARYANA AND ORS V/S RAM PRASAD
47.	RFA-5048-2017	STATE OF HARYANA AND ORS V/S JAGDISH
48.	RFA-5051-2017	STATE OF HARYANA AND ORS V/S NEHA AGGARWAL & ANR
49.	RFA-5086-2017	STATE OF HARYANA AND ORS V/S ROHTASH KUMAR
50.	RFA-5040-2017	STATE OF HARYANA AND ORS V/S JAGMAL
51.	RFA-5041-2017	STATE OF HARYANA AND ORS V/S VIRENDER SINGH
52.	RFA-652-2018	LAL CHAND AND ORS V/S STATE OF HARYANA AND ORS
53.	RFA-5261-2017	STATE OF HARYANA AND ORS V/S UDAI SINGH AND ANR
54.	RFA-5260-2017	STATE OF HARYANA & ORS V/S MUKHTIYAR SINGH & ANR
55.	RFA-5263-2017	STATE OF HARYANA AND OTHERS V/S SHER SINGH
56.	RFA-5267-2017	STATE OF HARYANA AND OTHERS V/S DHANWANTI & ANR.
57.	RFA-5268-2017	STATE OF HARYANA AND OTHERS V/S MANOHAR LAL
58.	RFA-5084-2017	STATE OF HARYANA AND ORS V/S SATPAL
59.	RFA-5252-2017	STATE OF HARYANA AND ORS V/S MAHESH KUMAR & ORS
60.	RFA-5274-2017	STATE OF HARYANA AND OTHERS V/S OM PARKASH & ORS
61.	RFA-5345-2017	STATE OF HARYANA AND ORS V/S SMT. URMILA DEVI & ORS
62.	RFA-5265-2017	STATE OF HARYANA AND OTHERS V/S SMT. GEETA DEVI & ANR
63.	RFA-5272-2017	STATE OF HARYANA AND OTHERS V/S TARA CHAND & ANR
64.	RFA-5445-2017	STATE OF HARYANA AND ORS V/S SMT. REENA YADAV AND ANR
65.	RFA-5444-2017	STATE OF HARYANA AND ORS V/S GOURI SAHAI
66.	RFA-5362-2017	STATE OF HARYANA AND ORS V/S GHISA RAM AND ORS
67.	RFA-643-2018	VIRENDER SINGH V/S STATE OF HARYANA AND ORS
68.	RFA-1214-2018	MANOHAR LAL V/S STATE OF HARYANA AND ORS
69.	RFA-5262-2017	STATE OF HARYANA AND OTHERS V/S SMT. SUSHMA
70.	RFA-5259-2017	STATE OF HARYANA AND OTHERS V/S RAM SINGH
71.	RFA-5270-2017	STATE OF HARYANA AND OTHERS V/S RAM KUMAR &

		ORS
72.	RFA-5049-2017	STATE OF HARYANA AND ORS V/S LAL CHAND AND ORS
73.	RFA-5264-2017	STATE OF HARYANA AND OTHERS V/S AMI LAL DECEASED THR. HIS LRS AND ANR.
74.	RFA-5446-2017	STATE OF HARYANA AND ORS V/S AMAR SINGH AND ORS
75.	RFA-644-2018	HANSRAJ V/S STATE OF HARYANA AND ORS
76.	RFA-5083-2017	STATE OF HARYANA AND ORS V/S VED PARKASH
77.	RFA-146-2018	STATE OF HARYANA AND OTHERS V/S PRABHU AND ORS
78.	RFA-5043-2017	STATE OF HARYANA AND ORS V/S BANWARI LAL AND ANR
79.	RFA-5258-2017	STATE OF HARYANA AND OTHERS V/S DARA SINGH AND ORS
80.	RFA-5080-2017	STATE OF HARYANA AND ORS V/S CHIRANJI LAL
81.	RFA-647-2018	VIJAYPAL AND ORS V/S STATE OF HARYANA AND ORS
82.	RFA-654-2018	VED PARKASH V/S STATE OF HARYANA AND ORS
83.	RFA-641-2018	MUKHTIYAR SINGH & ANR. V/S STATE OF HARYANA AND ORS
84.	RFA-176-2018	RAMSAWROOP V/S STATE OF HARYANA AND ORS.

(ANIL KSHETARPAL)

JUDGE